

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

NOVARTIS PHARMACEUTICALS  
CORPORATION, NOVARTIS  
CORPORATION, and NOVARTIS AG,

Plaintiffs,

v.

WOCKHARDT USA LLC and WOCKHARDT  
LIMITED.,

Defendants.

C.A. No. 12-cv-03967-SDW-MCA  
(Consolidated Actions)

NOVARTIS PHARMACEUTICALS  
CORPORATION, et al.,

Plaintiffs,

v.

SUN PHARMA GLOBAL FZE, et al.,

Defendants.

C.A. No. 12-4393

NOVARTIS PHARMACEUTICALS  
CORPORATION,

Plaintiff,

v.

ACTAVIS LLC, et al.,

Defendants.

C.A. No. 13-1028

NOVARTIS PHARMACEUTICALS  
CORPORATION,

Plaintiff,

v.

ACCORD HEALTHCARE INC., et al.,

Defendants.

Civil Action No. 13-2379

**DECLARATION IN SUPPORT OF  
DISCOVERY CONFIDENTIALITY ORDER**

We, the undersigned counsel, under penalty of perjury, declare as follows:

1. We are counsel for Plaintiffs Novartis Pharmaceuticals Corporation, Novartis Corporation, and Novartis AG (“Plaintiffs”) and Defendants Actavis LLC, Apotex, Inc., Apotex Corp., Gland Pharma Ltd., Dr. Reddy’s Laboratories, Inc., Dr. Reddy’s Laboratories Ltd., Emcure Pharmaceuticals USA, Inc., Emcure Pharmaceuticals, Ltd., Hikma Farmaceutica S.A., Hospira, Inc., Pharmaceutics International Inc., Sagent Pharmaceuticals, Inc., ACS Dobfar Info S.A., Strides, Inc., Agila Specialties Private Ltd., Sun Pharma Global FZE, Caraco Pharmaceutical Laboratories, Ltd., Sun Pharmaceutical Industries Ltd., Wockhardt USA LLC, Wockhardt Ltd., Accord Healthcare Inc., and Fresenius Kabi USA, LLC (collectively, “Defendants”) (Plaintiffs and Defendants collectively, “Parties”). We submit this Declaration in support of the joint application for a Discovery Confidentiality Order (“Confidentiality Order” or “Order”) made by all parties to this action.
2. This case arises out of the Plaintiffs’ assertion of patent infringement and various defenses and counterclaims to those causes of action. Given the nature of the claims and the

defenses asserted by the parties, discovery will likely include several areas of a sensitive nature, such as the parties' research and development efforts, drug formulations and commercial information. It is our understanding that documents concerning these subjects contain trade secrets or other confidential commercial information, and it is anticipated that other information and materials produced or created during the course of discovery, such as deposition transcripts, may also contain confidential information.

3. The parties in the case assert that the disclosure of this information without the entry of the Confidentiality Order would, among other things, result in harm to the parties and non-parties resulting from disclosure of trade secrets or other confidential research, development, or commercial information within the meaning of Fed. R. Civ. P. 26(c). Because disclosure of such material poses a substantial risk of causing harm to the parties, the parties developed and reached agreement upon a protocol for controlling disclosure of such information produced in discovery. The agreed-upon protocol is embodied in the proposed Confidentiality Order submitted herewith.

4. The parties respectfully submit that good cause exists for entry of the proposed Order. *See* Fed. R. Civ. P. 26(C); *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 786 (3d Cir. 1994). The nature of the case requires the parties to seek and produce documents and information and elicit deposition testimony, the disclosure of which poses a substantial risk of harm to the producing party's legitimate proprietary and financial interests. The proposed Confidentiality Order provides reasonable restrictions on the disclosure of such sensitive materials. In order to streamline the discovery process and minimize the need for Court intervention, the proposed Confidentiality Order adopts an approach that allows the producing party to designate certain materials being produced or deposition testimony as "Confidential

Information.” See Confidentiality Order, ¶¶ 2-4. Disclosure of materials designated as “Confidential Information” is limited to specific classes of persons as defined in the Order. *Id.*, ¶ 6. In addition, the proposed Order provides that the parties will follow the procedures of Local Rule 5.3 to file confidential documents with the Court under seal, if such documents need to be filed as part of motion practice or other proceeding. *Id.*, ¶ 12.

5. However, the proposed Confidentiality Order also provides that the party requesting production of the information may challenge the producing party’s confidentiality designation before the Court, thereby minimizing the likelihood that non-sensitive documents will be unnecessarily designated as Confidential Information. *Id.*, ¶ 13. Orders of this type have been approved by the United States Court of Appeals for the Third Circuit. See *Pansy*, 23 F.3d at 787 n.17; *Cipollone v. Liggett Group Inc.*, 785 F.2d 1108, 1122 (3d Cir. 1986), *cert. denied*, 484 U.S. 976 (1987). This action does not involve any public entity or official, and instead involves private litigants. Moreover, the information would not otherwise be available under a freedom of information law. These factors further weigh in favor of entering the proposed Confidentiality Order. *Pansy*, 23 F.3d at 786, 791.

6. Nothing herein is a waiver by any of the parties of any objection to any discovery request by any other party, nor an admission of the existence or relevance of such documents.

I hereby declare under penalty of perjury that the foregoing statements are true.

Date: July 12, 2013

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